

REMARKS

Claims 1-9 are currently pending in this application. Claims 1-3, 5, and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,012,462 to Schmittou in view of U.S. Patent No. 5,711,454 to Kobayashi et al. (hereinafter, "Kobayashi") and U.S. Patent No. 4,592,376 to Sigmund et al. (hereinafter, "Sigmund"). Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schmittou in view of Kobayashi and Sigmund, further in view of U.S. Patent No. 5,755,241 to Cheung. Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schmittou in view of Kobayashi and Sigmund, and further in view of U.S. Patent No. 4,826,046 to Rudick. Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schmittou in view of Kobayashi and Sigmund, and further in view of U.S. Patent No. 4,792,250 to Turner. Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schmittou in view of Kobayashi and Sigmund, and further in view of U.S. Patent No. 5,297,882 to Kornides.

Regarding the rejection of independent Claim 1, which recites, "a dye-containing space for preventing contact between hair dye remaining in the dye container and filling air introduced into the dye container," this Claim is patentable over Schmittou, Kobayashi and Sigmund.

In the Examiner's rejection of Claim 1, which is found in pages 2-3 of the Office Action, the Examiner fails to address the limitation of preventing contact between hair dye remaining in the dye container and filling air introduced into the dye container. FIG. 1 of Schmittou shows that pressurized air comes into direct contact with hair color formulas in containers 1, which teaches away from the claims of the present application. Further, Sigmund and Kobayashi do not cure the deficiencies of Schmittou, as they are silent in regards to preventing contact between hair dye and filling air. In particular, although Kobayashi discloses a container having both inner and outer layers for preventing deformation of the outer layer (Kobayashi, FIGs. 10-13; column 1, lines 42-45), Kobayashi does not teach that air is prevented from entering the space contained by the inner layer, which is not be required to prevent deformation of the outer layer. Therefore, all of the claimed features of independent Claim 1 are not taught or suggested by the combination

of Schmittou, Kobayashi, and Sigmund or by either reference alone. Therefore, Claim 1 is patentable over Schmittou, Kobayashi, and Sigmund. Accordingly, withdrawal of the §103(a) rejection of Claim 1 is respectfully requested.

Regarding the §103(a) rejection of independent Claim 3, which recites, “at least one pump connected to the dye inlet port and powered by the electric motor, the at least one pump providing an outside negative pressure at the dye inlet port for discharging the dye in the at least one dye container through the dye inlet port by sucking the hair dye out of the at least one dye container through the dye inlet port,” this claim is also patentable over Schmittou, Kobayashi and Sigmund.

The Examiner states that Schmittou does not teach the pump claimed in the present application. (Office Action, page 3). However, the Examiner states, “Sigmund et al. teaches a hair-dyeing device comprising an electric motor (50) source to power an outside negative pressure pump) (16) (see Figure 9; column 6, lines 15-25)”. The Examiner further asserts that it would have been obvious “to modify the hair dyeing device of Schmittou with the motor operated pump providing an outside negative pressure as taught by Sigmund et al. in order to operate the pump automatically.”

However, Sigmund teaches away from the use of a negative pressure pump claimed in the present application. According to Sigmund, “under the action of negative pressure, for example, formed by a pump, in condition of the retracting piston 16, the supply container may be filled to such an extent until the end position show in FIG. 5 is attained.” (Sigmund, column 5, lines 56-59). Therefore, Sigmund teaches using negative pressure to fill the supply container, whereas a positive pressure is used to dispense dye from the container. Similarly, Schmittou users positive pressure to dispense dye from the container as explained above. The combination to Sigmund and Schmittou does not teach, disclose, or suggest using negative pressure to dispense dye from the container. Therefore, the combination of Sigmund and Schmittou does not teach, disclose, or suggest, “at least one pump...powered by the electric motor...providing an outside negative pressure at the dye inlet port for discharging the dye in the at least one dye container through the

dye inlet port by sucking the hair dye out of the at least one dye container through the dye inlet port.” Further, Kobayashi does not cure the deficiencies of Schmittou and Sigmund. Therefore, all of the claimed features of independent Claim 3 are not taught or suggested by the combination of Schmittou, Kobayashi, and Sigmund or by either reference alone. Therefore, Claim 3 is patentable over Schmittou, Kobayashi, and Sigmund. Accordingly, withdrawal of the §103(a) rejection of Claim 3 is respectfully requested.

Claims 2 and 4-9 are dependent claims, and are believed to be in condition for allowance for at least the reasons given above with regard to their respective independent Claims 1 and 3.

Accordingly, all of the claims pending in the Application, namely, Claims 1-9 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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